IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.22340 of 1998

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Dated: January 18, 2007

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Between:

V. Balaji, S/o. Venkataswamy, Hindu, 45 years,
R/o. Maremmagudi Street, Kothapeta, Palamaneru,
Chittoor District.

… Petitioner

And

The Executive Officer, Sri Kasivisweswara Swamy
Temple, Palamaneru, Chittoor District, and another.

… Respondents

Order:

This Writ Petition has been filed seeking Mandamus to declare the action of the respondents in evicting the petitioner from the site measuring 49 x 20 feet situated near Sri Kasivisweswaraswamy Temple, Palamaneru, as illegal and arbitrary and a direction to the respondents not to evict him from the aforesaid site as otherwise under due process of law.

2. Petitioner claims to have been leased out a plot measuring 49 x 20 feet situated in front of the aforesaid temple at the rate of Rs.400/- per month by the first respondent. It is stated that an agreement dated 06-07-1998 was also entered into to that effect and petitioner was asked to pay Rs.1,200/-, i.e. rent of three months as advance in token of handing over possession of the said plot to him. It is further stated that one of the conditions in the said agreement is that the petitioner has to pay a monthly rent of Rs.400/- for a period of five years, which would be enhanced later.

3. The case of the petitioner is that though he has been put in possession of the aforesaid plot and he erected a temporary hut therein, by virtue of the lease entered into by the respondents, steps were being taken to evict him from the said plot without issuing any notice or opportunity to him.

4. This court, at the stage of admission, by order dated 10-08-1998 directed the respondents not to evict the petitioner from the said land. Though the Writ Petition is of the year 1998, no counter affidavit has been filed and there is no representation on behalf of the respondents.

5. As it is the case of the petitioner that he was put in possession of the said plot of land by virtue of the lease entered into by him with the respondent-temple, he cannot be termed as an encroacher. It is to be seen that the lease, which was granted in the year 1998, was for a period of five years and as on today, it stands expired. However, as it is the case of the petitioner that no opportunity or notice was issued to him and in view of the fact that the interim order of this court has been continuing all along, I dispose of the Writ Petition directing the respondents to follow the procedure as contemplated under

the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 ('the Act' for brevity) and the rules made thereunder before evicting the petitioner from the land in question, if he is in possession of the said land as on today. No order as to costs.

JUSTICE R. SUBHASH REDDY.

January 18, 2007
MRR